

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fenkel	Team: Squad #11	CCRB Case #: 201606441	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/20/2016 6:15 AM	Location of Incident: § 87(2)(b)	Precinct: 40	18 Mo. SOL 1/20/2018	EO SOL 1/20/2018	
Date/Time CV Reported Wed, 07/20/2016 3:21 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 07/26/2016 2:19 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Juan Nolasco	02379	937196	NARCBBX
2. DT3 Gustavo Medina	07516	942180	NARCBBX
3. SGT Daryl Melhado	01268	940464	NARCBBX
4. POM Jose Reyna	12126	942422	NARCBBX
5. DT3 Jose Cintron	4861	946638	NARCBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Petar Simonovic	4299	946257	NARCBBX

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Juan Nolasco	Abuse: Detective Juan Nolasco entered and searched § 87(2)(b) in the Bronx.	
B.DT3 Gustavo Medina	Force: Detective Gustavo Medina used physical force against § 87(2)(b)	
C.DT3 Jose Cintron	Abuse: Detective Jose Cintron threatened to notify Administration for Children's Services.	
D.DT3 Jose Cintron	Discourtesy: Detective Jose Cintron spoke discourteously to § 87(2)(b)	
E.DT3 Jose Cintron	Discourtesy: Detective Jose Cintron acted discourteously toward § 87(2)(b)	
F.POM Jose Reyna	Discourtesy: Police Officer Jose Reyna acted discourteously toward § 87(2)(b)	
G.DT3 Juan Nolasco	Discourtesy: Detective Juan Nolasco spoke discourteously to § 87(2)(b)	
H.DT3 Juan Nolasco	Abuse: Detective Juan Nolasco threatened to notify Administration for Children's Services.	
I.SGT Daryl Melhado	Abuse: Sergeant Daryl Melhado searched a vehicle.	

Case Summary

On July 20, 2016, § 87(2)(b) called the IAB Command Center and filed this complaint on behalf of herself, her father, § 87(2)(b) and her husband, § 87(2)(b). § 87(2)(b)'s complaint was received at the CCRB on July 26, 2016.

On July 20, 2016, at approximately 6:15 a.m., Det. Juan Nolasco and a team of officers from Bronx Narcotics executed a search warrant at § 87(2)(b) in the Bronx (**Allegation A**). § 87(2)(b) resides in the apartment, and § 87(2)(b) and § 87(2)(b) along with their § 87(2)(b) son, were staying over as well.

Det. Gustavo Medina and Det. Petar Simonovic entered § 87(2)(b) bedroom, and Det. Medina allegedly struck her with a ballistic shield (**Allegation B**), resulting in no injury. Det. Jose Cintron allegedly told § 87(2)(b) that her son would be taken into the custody of the Administration for Children's Services ("ACS") (**Allegation C**). Det. Cintron also allegedly stated, "You basically did everything I fucking told you not to do," and "fucking goodbye to your job" (**Allegation D**). Det. Cintron allegedly threw § 87(2)(b)'s work identification through a window (**Allegation E**) and PO Jose Reyna allegedly threw a set of keys onto a table (**Allegation F**).

Det. Nolasco allegedly called § 87(2)(b) "a fatass piece of shit" and allegedly said § 87(2)(b) would "loose her son because [she] don't wanna be honest" (**Allegation G, Allegation H**). After cocaine was recovered from § 87(2)(b)'s dresser, Det. Nolasco allegedly told § 87(2)(b) "Look at you, piece of shit" (**within Allegation G**).

§ 87(2)(b) and § 87(2)(b) were arrested and secured in a prisoner van for transport. From the prisoner van, § 87(2)(b) observed Det. Simonovic and PO Reyna search a black Lincoln Town Car under the supervision of Sgt. Daryl Melhado (**Allegation I**).

§ 87(2)(b) and § 87(2)(b) were arrested for § 87(2)(b) (Board Review 01, Board Review 02). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

There is no video footage of the incident.

This case was delayed due to the civilians' delayed cooperation with the investigation.

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- As of November 10, 2016, neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with the NYC Comptroller's Office regarding this incident (Board Review 05).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) and § 87(2)(b) (Board Review 09).

- Det. Nolasco has been a member-of-the-service for 11 years and has four prior CCRB complaints involving seven allegations, none of which were substantiated. CCRB case #200612552 and #201500608 involved two discourteous language allegations, which were truncated.
- Det. Medina has been a member-of-the-service for 10 years and has nine prior CCRB complaints involving 27 allegations, six of which are physical force allegations. In CCRB case #200807867, one search of person allegation was substantiated. The Board recommended charges, but the NYPD instead issued Det. Medina instructions. In CCRB case #201000312, one stop, one frisk, and one search of person allegation were all substantiated. The Board recommended charges. The NYPD issued Det. Medina instructions for the stop and frisk allegations, but took no disciplinary action regarding the search allegation. In CCRB case #201302396, one stop and one search of person allegation were substantiated. The Board recommended charges, but the NYPD disposition remains unknown.
- Sgt. Melhado has been a member-of-the-service for 10 years and has seven prior CCRB complaints involving 18 allegations. In CCRB case #200917132, a pepper spray allegation was substantiated. The Board recommended charges, but the NYPD instead issued Sgt. Melhado instructions. In CCRB case #201406818, one stop, one frisk, and one search allegation were all substantiated. The Board recommended a command discipline, but the NYPD issued Sgt. Melhado formalized training.
- Det. Cintron has been a member-of-the-service for eight years and has three prior CCRB complaints involving five allegations, none of which were substantiated § 87(2)(g) [REDACTED].
- PO Reyna has been a member-of-the-service for 10 years and has four prior CCRB complaints involving six allegations, none of which were substantiated § 87(2)(g) [REDACTED].

Potential Issues

§ 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] each provided phone statements to the CCRB, but were uncooperative with further participating in the investigation (see IAs for contact attempts).

Findings and Recommendations

Explanation of Subject Officer Identification

Det. Nolasco (Board Review 10) obtained the search warrant (Board Review 11) and testified that he was present at the time of its execution. § 87(2)(g) [REDACTED].

Det. Medina (Board Review 12) acknowledged being the officer who entered § 87(2)(b) [REDACTED]'s bedroom while carrying a ballistic shield. § 87(2)(g) [REDACTED].

Det. Cintron acknowledged being the officer who spoke with § 87(2)(b) [REDACTED] about her employment and her son. § 87(2)(g) [REDACTED].

PO Reyna acknowledged returning a set of keys to her at the conclusion of this incident. § 87(2)(g) [REDACTED].

§ 87(2)(b) (Board Review 13) described the officer who used profanity towards him and threatened to notify ACS as a dark-skinned Hispanic male with black hair, standing 6'0" tall, in his late twenties to early thirties, with a muscular build, whom he interacted with in his living room. Det. Nolasco, Sgt. Melhado (Board Review 14), Det. Cintron (Board Review 15), and PO Reyna (Board Review 16) identified themselves as the officers who interacted with § 87(2)(b) in the living room. Det. Nolasco's NYPD Officer Photograph (Board Review 17) depicts him as a § 87(2)(b) -old dark-skinned Hispanic male with black hair, standing 6'2" tall, and weighing 215 pounds. In his CCRB Interview Report Worksheet (Board Review 18), Sgt. Melhado described himself as a § 87(2)(b) -old black male with black hair, standing 5'8" tall, and weighing 185 pounds. Det. Cintron described himself as a § 87(2)(b) -old Hispanic male who is completely bald, standing 5'9" tall, and weighing 220 pounds in his CCRB Interview Report Worksheet (Board Review 19). PO Reyna described himself as a § 87(2)(b) -old Hispanic male with black hair, standing 5'8" tall, and weighing 230 pounds in his CCRB Interview Report Worksheet (Board Review 20). § 87(2)(g)

PO Reyna acknowledging entering a black Lincoln Town Car during this incident and Det. Simonovic acknowledged searching the vehicle. Both officers said they did so either under the authority of or with the permission of Sgt. Melhado. § 87(2)(g)

Allegation A – Abuse of Authority: Detective Juan Nolasco entered and searched § 87(2)(b) in the Bronx.

It is undisputed that officers entered and searched § 87(2)(b). Article 690.50 of the Criminal Procedure Law (Board Review 21) permits officers who have obtained a valid judge-issued search warrant to enter and search the location. Search warrant § 87(2)(b) issued by Criminal Court Judge § 87(2)(b) on § 87(2)(b), authorized officers to enter § 87(2)(b) and search the location for cocaine and other evidence demonstrating that the premises was utilized for the unlawful possession, packing, and sale of cocaine, and to connect persons found therein to the premises by personal papers and effects. § 87(2)(g)

Allegation B – Detective Gustavo Medina used physical force against § 87(2)(b)

Allegation C – Detective Jose Cintron threatened to notify Administration for Children's Services.

Allegation D – Detective Jose Cintron spoke discourteously to § 87(2)(b)

Allegation E – Detective Jose Cintron acted discourteously toward § 87(2)(b)

Allegation F – Police Officer Jose Reyna acted discourteously toward § 87(2)(b)

In her initial phone statement to the CCRB, § 87(2)(b) alleged that Det. Cintron threatened to call ACS, threw her work identification, and allegedly told her, "Fucking goodbye to your job." § 87(2)(b) also alleged that PO Reyna threw her keys onto a table. In one follow-up call with the CCRB, § 87(2)(b) alleged that Det. Cintron also told her, "You basically did everything I fucking told you not to do." However, in a second follow-up call, § 87(2)(b) stated that Det. Cintron actually said, "Say goodbye to your job," and "You did what I told you not to do." During this second follow-up call, § 87(2)(b) also alleged that when Det. Medina first entered her bedroom, he allegedly struck her with his ballistic shield.

During his phone statement, § 87(2)(b) corroborated some of § 87(2)(b)'s allegations by stating that an officer told § 87(2)(b) "You're not fucking doing what I told you to do" and "When we find something, everyone is getting taken to jail and your child is going to ACS." § 87(2)(b) did not mention an officer striking § 87(2)(b) with a ballistic shield.

§ 87(2)(g)

Allegation G – Detective Juan Nolasco spoke discourteously to § 87(2)(b)

Allegation H – Detective Juan Nolasco threatened to notify Administration for Children's Services.

§ 87(2)(b) testified that he spoke with Det. Nolasco, Sgt. Melhado, and PO Reyna in his living room, and that the officers explained that they had been investigating him for months based on complaints from his neighbors. § 87(2)(b) told the officers that he did not know what they were talking about, and Det. Nolasco allegedly told § 87(2)(b) that he was a "fatass piece of shit" and that § 87(2)(b) would "lose her son because [he did not] want to be honest." After § 87(2)(b) denied possessing narcotics but cocaine was recovered from a nearby dresser, Det. Nolasco allegedly told § 87(2)(b) "Look at you, piece of shit."

§ 87(2)(b) (Board Review 22, Board Review 23) and § 87(2)(b) (Board Review 24) were elsewhere inside the apartment during this aspect of the incident.

Det. Nolasco testified that upon entering the living room he stated, "Police. Search warrant. Show us your hands" and that § 87(2)(b) then laid down on the floor. Det. Nolasco denied having any further conversation with § 87(2)(b). Det. Nolasco denied making any of the alleged statements and Sgt. Melhado, Det. Cintron, and PO Reyna denied hearing Det. Nolasco or any other officer do so.

§ 87(2)(g)

Allegation I – Sergeant Daryl Melhado searched a vehicle.

The investigation determined that Sgt. Melhado authorized the search of an unoccupied black Lincoln Town Car parked outside of § 87(2)(b).

§ 87(2)(b) testified that he saw Det. Simonovic and PO Reyna conduct an extensive search of a black Lincoln Town Car parked in front of § 87(2)(b)'s apartment. Those officers looked inside the vehicle's trunk, interior, and underneath its hood. § 87(2)(b) denied ownership of the vehicle and denied knowing who the vehicle belonged to.

PO Reyna testified that § 87(2)(b) asked him to move the vehicle, which § 87(2)(b) said belonged to § 87(2)(b) in anticipation of alternate side parking since he was being arrested, and that PO Reyna agreed to do so as a favor. PO Reyna told Sgt. Melhado his intentions and after Sgt. Melhado gave PO Reyna permission to do so, PO Reyna entered the front seat of the vehicle and tried to turn on the engine, but discovered that it would not start. He said he exited after "a few minutes." PO Reyna denied that he entered any other areas of the vehicle and denied that he searched any part of the vehicle. He denied seeing any other officer enter or search the vehicle. PO Reyna did not believe that his actions constituted a search and he denied that Sgt. Melhado

instructed him to search the vehicle. PO Reyna denied that there was anything suspicious about the vehicle.

Det. Simonovic (Board Review 25) initially testified that Sgt. Melhado instructed him to “help PO Reyna,” but later in his CCRB interview stated that Sgt. Melhado explicitly instructed him to “help PO Reyna search the vehicle.” Det. Simonovic described the vehicle as messy and having papers strewn about its interior, but he denied that there was anything suspicious about it. Det. Simonovic acknowledged that he searched the trunk, the front passenger’s side and side door pocket, and the glove compartment, all with negative results. Det. Simonovic denied seeing any other officers enter or search the vehicle.

Det. Medina was seated next to Det. Simonovic at the time Det. Simonovic spoke with Sgt. Melhado, and corroborated that Sgt. Melhado instructed Det. Simonovic to “assist” PO Reyna with a black Lincoln Town Car. Det. Medina did not know what PO Reyna needed assistance with. Det. Medina stepped out of his vehicle, at which point he observed PO Reyna and Det. Simonovic standing outside of the black Lincoln Town Car. Det. Medina denied that any of the vehicle’s windows, doors, or trunk were opened, and he denied seeing any officer search the vehicle.

Det. Nolasco and Det. Cintron denied having any knowledge of a vehicle being searched during this incident.

Sgt. Melhado testified that PO Reyna informed him that he was going to move § 87(2)(b) s vehicle as a favor to § 87(2)(b) in anticipation of alternate side parking. From his position on the sidewalk, Sgt. Melhado watched PO Reyna enter the vehicle through the front driver’s side door, but he was unable to start the engine. During his CCRB interview, when asked where on the sidewalk he was standing in relation to the vehicle, Sgt. Melhado said, “Close enough to see him in the car.” Sgt. Melhado told Det. Simonovic, “Pete, help out Reyna.” Sgt. Melhado denied that he gave Det. Simonovic more specific instructions as to what he meant and he denied observing what Det. Simonovic did to assist PO Reyna. At the time, Sgt. Melhado remained standing on the sidewalk, but he could not recall exactly where on the sidewalk he was positioned in relation to the vehicle.

Aside from the front driver’s seat, Sgt. Melhado did not see PO Reyna enter any other parts of the vehicle. Sgt. Melhado did not see PO Reyna search the vehicle. Sgt. Melhado did not see Det. Simonovic enter the vehicle. Sgt. Melhado did not see any officer search the trunk of the vehicle, nor was he aware of the vehicle’s trunk being open, and he denied that he saw any officer search the glove compartment of the vehicle. Sgt. Melhado denied that there was anything suspicious about the vehicle, denied that there was any reason to believe evidence of a crime was inside the vehicle, and denied that there was any reason to enter the vehicle further than pursuant to § 87(2)(b) s alleged request to move it.

According to the automobile exception, if there is probable cause to believe a vehicle contains evidence of criminal activity, a search of any area of the vehicle in which evidence might be found is authorized. Arizona v. Gant, 556 U.S. 322 (2009) (Board Review 26).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)

Squad: #11

Investigator: _____
Signature Print Date

Squad Leader: _____
 Title/Signature Print Date

Reviewer: _____

Title/Signature Print Date